

Department of Labor, even if the Assistant Secretary is not a party.

(d) If the ARB concludes that the respondent has violated the law, the final order will order the respondent to take appropriate affirmative action to abate the violation, including reinstatement of the complainant to that person's former position, together with the compensation (including back pay), terms, conditions, and privileges of employment, and compensatory damages. In cases arising under the Safe Drinking Water Act or the Toxic Substances Control Act, exemplary damages may also be awarded when appropriate. At the request of the complainant, the ARB will assess against the respondent all costs and expenses (including attorney's fees) reasonably incurred.

(e) If the ARB determines that the respondent has not violated the law, an order will be issued denying the complaint.

Subpart C—Miscellaneous Provisions

§ 24.111 Withdrawal of complaints, objections, and petitions for review; settlement.

(a) At any time prior to the filing of objections to the findings and/or order, a complainant may withdraw his or her complaint under any of the statutes listed in § 24.100(a) by filing a written withdrawal with the Assistant Secretary. The Assistant Secretary will then determine whether to approve the withdrawal. The Assistant Secretary will notify the respondent of the approval of any withdrawal. If the complaint is withdrawn because of settlement under the Energy Reorganization Act, the Clean Air Act, the Safe Drinking Water Act, or the Toxic Substances Control Act, the settlement must be submitted for approval in accordance with paragraph (d) of this section. Parties to settlements under the Federal Water Pollution Control Act, the Solid Waste Disposal Act, and the Comprehensive Environmental Response, Compensation and Liability Act are encouraged to submit their settlements for approval. After the filing of objections to the Assistant Secretary's findings and/or order, a complainant may not withdraw his or her complaint.

(b) The Assistant Secretary may withdraw his or her findings and/or order, at any time before the expiration of the 30-day objection period described in § 24.106, provided that no objection has yet been filed, and substitute new findings and/or a new order. The date of the receipt of the substituted findings and/or order will begin a new 30-day objection period.

(c) At any time before the Assistant Secretary's findings or order become final, a party may withdraw its objections to the Assistant Secretary's findings or order by filing a written withdrawal with the ALJ. If a case is on review with the ARB, a party may withdraw its petition for review of an ALJ's decision at any time before that decision becomes final by filing a written withdrawal with the ARB. The ALJ or the ARB, as the case may be, will determine whether to approve the withdrawal of the objections or the petition for review. If the ALJ approves a request to withdraw objections to the Assistant Secretary's findings or order, and there are no other pending objections, the Assistant Secretary's findings and order will become the final order of the Secretary. If the ARB approves a request to withdraw a petition for review of an ALJ decision, and there are no other pending petitions for review of that decision, the ALJ's decision will become the final order of the Secretary. If the objections are withdrawn because of settlement under the Energy Reorganization Act, the Clean Air Act, the Safe Drinking Water Act, or the Toxic Substances Control Act, the settlement must be submitted for approval in accordance with paragraph (d) of this section.

(d)(1) *Investigative settlements under the Energy Reorganization Act, the Clean Air Act, the Safe Drinking Water Act, and the Toxic Substances Control Act.* At any time after the filing of a complaint, and before the findings and/or order are objected to or become a final order by operation of law, the case may be settled if the Assistant Secretary, the complainant and the respondent agree to a settlement. The Assistant Secretary's approval of a settlement reached by the respondent and the complainant demonstrates his or her

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consent and achieves the consent of all three parties.

(2) *Adjudicatory settlements under the Energy Reorganization Act, the Clean Air Act, the Safe Drinking Water Act, and the Toxic Substances Control Act.* At any time after the filing of objections to the Assistant Secretary's findings and/or order, the case may be settled if the participating parties agree to a settlement and the settlement is approved by the ALJ if the case is before the judge, or by the ARB if the ARB has accepted the case for review. A copy of the settlement must be filed with the administrative law judge or the ARB, as the case may be.

(e) Any settlement approved by the Assistant Secretary, the administrative law judge, or the ARB will constitute the final order of the Secretary and may be enforced pursuant to § 24.113.

§ 24.112 Judicial review.

(a) Except as provided under subsections (b), (c), and (d) of this section, within 60 days after the issuance by the ARB of a final order of the Secretary under § 24.110, any person adversely affected or aggrieved by the order may file a petition for review of the order in the United States Court of Appeals for the circuit in which the violation allegedly occurred or the circuit in which the complainant resided on the date of the violation. A final order of the ARB is not subject to judicial review in any criminal or other civil proceeding.

(b) Under the Federal Water Pollution Control Act, within 120 days after the issuance by the ARB of a final order of the Secretary under § 24.110, any person adversely affected or aggrieved by the order may file a petition for review of the order in the United States Court of Appeals for the circuit in which the violation allegedly occurred or the circuit in which the complainant resided on the date of the violation.

(c) Under the Solid Waste Disposal Act, within 90 days after the issuance by the ARB of a final order of the Secretary under § 24.110, any person adversely affected or aggrieved by the order may file a petition for review of the order in the United States Court of Appeals for the circuit in which the

violation allegedly occurred or the circuit in which the complainant resided on the date of the violation.

(d) Under the Comprehensive Environmental Response, Compensation and Liability Act, after the issuance by the ARB of a final order of the Secretary under § 24.110, any person adversely affected or aggrieved by the order may file a petition for review of the order in the United States district court in which the violation allegedly occurred. For purposes of judicial economy and consistency, when a final order of the Secretary issued by the ARB under the Comprehensive Environmental Response, Compensation and Liability Act also is issued under any other statute listed in § 24.100(a), the adversely affected or aggrieved person may file a petition for review of the entire order in the United States Court of Appeals for the circuit in which the violation allegedly occurred or the circuit in which the complainant resided on the date of the violation. The time for filing a petition for review of an order issued under the Comprehensive Environmental Response, Compensation and Liability Act and any other statute listed in § 24.100(a) is determined by the time period applicable under the other statute(s).

(e) If a timely petition for review is filed, the record of a case, including the record of proceedings before the administrative law judge, will be transmitted by the ARB to the appropriate court pursuant to the Federal Rules of Appellate Procedure and the local rules of the court.

§ 24.113 Judicial enforcement.

Whenever any person has failed to comply with an order by an ALJ issued under the Energy Reorganization Act, with the exception of any award of compensatory damages, or with a final order of the Secretary, including final orders approving settlement agreements as provided under § 24.111(d), the Secretary may file a civil action seeking enforcement of the order in the United States district court for the district in which the violation was found to have occurred. Whenever any person has failed to comply with an order by an ALJ issued under the Energy Reorganization Act, with the exception of